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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058543
Party	Defendant Razer (Asia-Pacific) Pte Ltd.
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Date	10/14/2015
Attachments	razer amended answer.pdf(598280 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

EDGE GAMES, INC.

Petitioner,

v.

RAZER (ASIA-PACIFIC) PTE LTD,

Registrant.

Cancellation No.: 92058543

Mark: EDGE

Registration No. 4,394,393

Registered: September 3, 2013

RAZER (ASIA-PACIFIC) PTE LTD
FIRST AMENDED ANSWER TO PETITION TO CANCEL

Pursuant to the Board's Order dated September 25, 2015, Registrant, (Asia-Pacific) Pte Ltd ("Registrant") hereby submits an amended answer to the petition to cancel. None of the answers in paragraphs 1 through 39 have been amended, but rather only the portion of the answer regarding Registrant's affirmative defenses of estoppel and unclean hands have been modified from the original answer. In addition, pursuant to the Board's Order of September 25, 2015, Registrant has deleted its fourth and fifth affirmative defenses, since the Board concurred that Petitioner's first and fourth claims are not separate causes of action and those defenses are therefore moot.

1. Registrant does not have sufficient information to admit or deny the allegations in paragraph one of the petition to cancel, and therefore denies them.
2. To the extent paragraph two of the petition to cancel includes factual allegations, Registrant does not have sufficient information to admit or deny the allegations, and therefore denies them.
3. To the extent paragraph three of the petition to cancel includes factual allegations, Registrant does not have sufficient information to admit or deny the allegations, and therefore denies them.
4. Registrant admits that its application for EDGE in Singapore was filed on October 18, 2011. Registrant denies that the Singapore registration was granted April 17, 2012 and denies that the Singapore application was filed in the U.S. Trademark Office as recently as October 4, 2012. Registrant does not have sufficient information to admit or deny the remaining allegations, and therefore denies them.
5. To the extent paragraph five of the petition to cancel includes factual allegations, Registrant does not have sufficient information to admit or deny the allegations, and therefore denies them.
6. Registrant does not have sufficient information to admit or deny the allegations in paragraph six of the petition to cancel, and therefore denies them.
7. Registrant does not have sufficient information to admit or deny the allegations in paragraph seven of the petition to cancel, and therefore denies them.
8. Registrant does not have sufficient information to admit or deny the allegations in paragraph eight of the petition to cancel, and therefore denies them.
9. Registrant does not have sufficient information to admit or deny the allegations in paragraph nine of the petition to cancel, and therefore denies them.
10. Registrant denies that it has ignored Petitioner. To the extent paragraph ten of the petition to cancel includes other factual allegations, Registrant does not have sufficient information to admit or deny the allegations, and therefore denies them.
11. Registrant admits that Petitioner has accurately reproduced the identification of goods in Registrant's EDGE registration and the goods in Classes 9 and 28 in Petitioner's cancelled registration and pending applications. Registrant denies that it is known solely for computer game hardware and sells its EDGE brand tablets solely as gaming tablets. To the extent paragraph eleven of the petition to cancel includes other factual allegations, Registrant does not have sufficient information to admit or deny the allegations, and therefore denies them.
12. Registrant admits that its EDGE registration covers "computer tablet" and that Petitioner's subsequent EDGE PC and EDGE GAMING PC applications cover "tablet computer." To the extent paragraph twelve of the petition to cancel includes

other factual allegations, Registrant does not have sufficient information to admit or deny the allegations, and therefore denies them.

13. Registrant does not have sufficient information to admit or deny the allegations in paragraph thirteen of the petition to cancel, and therefore denies them.
14. Registrant does not have sufficient information to admit or deny the allegations in paragraph fourteen of the petition to cancel, and therefore denies them.
15. Registrant does not have sufficient information to admit or deny the allegations in paragraph fifteen of the petition to cancel, and therefore denies them.
16. Registrant does not have sufficient information to admit or deny the allegations in paragraph sixteen of the petition to cancel, and therefore denies them.
17. Registrant admits that Petitioner has accurately reproduced the identification of goods in its cancelled cited registrations. To the extent paragraph seventeen of the petition to cancel includes other factual allegations, Registrant does not have sufficient information to admit or deny the allegations, and therefore denies them.
18. Registrant does not have sufficient information to admit or deny the allegations in paragraph eighteen of the petition to cancel, and therefore denies them.
19. Registrant does not have sufficient information to admit or deny the allegations in paragraph nineteen of the petition to cancel, and therefore denies them.
20. Registrant does not have sufficient information to admit or deny the allegations in paragraph twenty of the petition to cancel, and therefore denies them.
21. Registrant admits it and its attorneys corresponded with Petitioner in 2013 regarding the EDGE mark. Registrant denies the characterization of its correspondence as alleged in paragraph twenty-one of the petition to cancel. Registrant does not have sufficient information to admit or deny the remaining allegations in paragraph twenty-one of the petition to cancel, and therefore denies them.
22. Registrant admits it and its attorneys corresponded with Petitioner in 2013 regarding the EDGE mark. Registrant denies the characterization of its correspondence as alleged in paragraph twenty-two of the petition to cancel. Registrant does not have sufficient information to admit or deny the remaining allegations in paragraph twenty-two of the petition to cancel, and therefore denies them.
23. Registrant denies it has engaged in infringing or passing off behavior, and denies the remaining allegations in paragraph twenty-three of the petition to cancel.
24. Registrant repeats its answers to paragraphs one through twenty-three of the petition to cancel.

25. Registrant does not have sufficient information to admit or deny the allegations in paragraph twenty-five of the petition to cancel, and therefore denies them.
26. Registrant does not have sufficient information to admit or deny the allegations in paragraph twenty-six of the petition to cancel, and therefore denies them.
27. Registrant repeats its answers to paragraphs one through twenty-six of the petition to cancel.
28. Registrant does not have sufficient information to admit or deny the allegations in paragraph twenty-eight of the petition to cancel, and therefore denies them.
29. Registrant does not have sufficient information to admit or deny the allegations in paragraph twenty-nine of the petition to cancel, and therefore denies them.
30. To the extent paragraph thirty of the petition to cancel includes factual allegations, Registrant does not have sufficient information to admit or deny the allegations, and therefore denies them.
31. Registrant denies the allegations in paragraph thirty-one of the petition to cancel.
32. Registrant repeats its answers to paragraphs one through thirty-one of the petition to cancel.
33. Registrant does not have sufficient information to admit or deny the allegations in paragraph thirty-three of the petition to cancel, and therefore denies them.
34. Registrant does not have sufficient information to admit or deny the allegations in paragraph thirty-four of the petition to cancel, and therefore denies them.
35. Registrant repeats its answers to paragraphs one through thirty-four of the petition to cancel.
36. Registrant admits it corresponded with Petitioner in 2013 regarding the EDGE mark. Registrant denies the characterization of its correspondence as alleged in paragraph thirty-six of the petition to cancel. Registrant does not have sufficient information to admit or deny the remaining allegations in paragraph thirty-six of the petition to cancel, and therefore denies them.
37. Registrant denies the allegations in paragraph thirty-seven of the petition to cancel.
38. Registrant denies that its registration of EDGE has caused dilution. Registrant does not have sufficient information to admit or deny the remaining allegations in paragraph thirty-eight of the petition to cancel, and therefore denies them.
39. Registrant denies the allegations in paragraph thirty-nine of the petition to cancel.

Affirmative Defenses

1. Petitioner has abandoned any rights it may have had in EDGE-related marks.
2. Petitioner is estopped from proceeding with the cancellation action, as it has cited several trademark registrations in its petition to cancel that had already been ordered cancelled by court order of the Northern District of California in civil action no. 10-CV-02614-WHA and actually cancelled by the Board.
3. Petitioner's unclean hands prevent it from proceeding with the cancellation action. Petitioner has engaged in an egregious pattern of intimidation and repeated misrepresentations to the PTO, courts, and others related to its alleged use of EDGE-related marks and made other related factual misrepresentations, including but not necessarily limited to:

(A) As documented in Registrant's September 18, 2014 Reply Brief In Opposition To Petitioner's Motion For Summary Judgment and Registrant's Request For Sanctions, Petitioner made false allegations that Registrant:

- (1) "made no attempt itself to enter into any . . . Discovery Conference"
- (2) "failed/refused" to respond to Petitioner's letter of March 28, 2014
- (3) "refused to respond" to Petitioner's proposal to enter into mediation or arbitration, and
- (4) refused to participate in the discovery process despite Petitioner's alleged "numerous efforts to encourage" such participation

(B) As documented in Registrant's September 18, 2014 Reply Brief In Opposition To Petitioner's Motion For Summary Judgment and Registrant's Request For Sanctions, Petitioner has a history of attempting to mislead the Board, noting that the Board found in its ruling of May 1, 2013 in Cancellation Action No. 92051465 that Petitioner twisted and modified legal citations in an effort to meet its own ends and stated "[t]o say the least, Edge Games' conduct is unacceptable. Edge Games is admonished against any further attempts to mislead the Board."

(C) As documented in Registrant's September 18, 2014 Reply Brief In Opposition To Petitioner's Motion For Summary Judgment and Registrant's Request For Sanctions, the U.S. District Court for the Northern District of California, in denying Petitioner's motion for a preliminary injunction against Electronic Arts regarding the MIRROR'S EDGE mark based on Petitioner's claim of ownership of EDGE, made numerous findings regarding Petitioner and its CEO (and current pro se representative) Tim Langdell, which raise questions of fraud on the PTO in obtaining various trademark registrations, including:

- (1) EA raised "serious questions regarding the veracity of Dr. Langdell's entire declaration."

(2) EA presented “compelling evidence that there was no bona fide use of the ‘EDGE’ mark in commerce by [Edge Games, Inc.]”

(3) “Even more egregious, according to Marvel Vice President and Deputy General Counsel Walter Bard, neither Marvel nor Mailbu Comics are or were ever licensees of Dr. Langdell’s companies for any of these marks.”

(4) “Compelling evidence of fraud on the USPTO has also been submitted by EA with respect to [Edge Games, Inc.’s] ‘THE EDGE’ mark.”

(5) “Even more evidence of fraud is seen in the comic-book specimen submitted to the USPTO by Dr. Langdell in November 2005.”

(6) “Based upon this apparently doctored specimen submitted by Dr. Langdell, the ‘GAMER’S EDGE’ mark was issued to [Edge Games, Inc.]”

(7) “EA has submitted evidence demonstrating that Dr. Langdell’s claimed sales of video games supposedly bearing the ‘GAMER’S EDGE’ mark are highly suspect.”

(8) “EA has put forth substantial evidence calling into severe question many of the representations made by Dr. Langdell in his declaration submitted to the Court. Indeed, the declarations provided by EA from two of plaintiff’s supposed ‘licensees’ – Marvel Entertainment and Future Publishing – revealed that many of Dr. Langdell’s assertions in his declaration were materially misleading or downright false. These falsehoods infect all of Dr. Langdell’s assertions regarding the bona fide and continuous use of the asserted marks in commerce and the purported ‘sales’ of his company’s video-game products. In other words, all of his representations have become highly suspect in light of the evidence presented by EA.”

(9) [T]he majority of [Edge Games, Inc.’s] arguments on this issue [the likelihood of confusion] are tainted by the suspect evidence set forth in Dr. Langdell’s declaration.”

(10) “All of [Edge Games, Inc.’s] representations regarding the validity and use of the asserted marks are infected by evidence of deceit.”

(D) As documented in Registrant’s September 18, 2014 Reply Brief In Opposition To Petitioner’s Motion For Summary Judgment and Registrant’s Request For Sanctions, Petitioner has also been found to be mendacious by a court in the United Kingdom in a case against Future Publishing Limited, the High Court of Justice, Chancery Division finding as follows:

(1) Dr. Langdell’s story regarding computer disk evidence of use was “absurd.”

(2) Dr. Langdell produced a “long and tortuous explanation” of email correspondence he allegedly had with Future Publishing’s computer disk expert, the court finding “I have no doubt not merely that [the email] was not received but that it was never in fact sent. The overwhelming inference is that the suspect . . . email was concocted as support for Dr. Langdell’s story that he had created a cloned disk. . . Dr. Langdell’s story is incredible. The truth is a prosaic one, namely that Dr. Langdell concocted disk 1 in support of his claim that he had invented the EDGE logo in 1991. When this was exposed by the claimant’s expert he constructed an elaborate explanation and created disk 3, having learned from the [expert’s] Report how to avoid the mistakes he made the first time.”

(3) “It is hard to escape the inference that crucial emails, said to have been sent by Dr. Langdell but not received . . . were never in fact sent at all.”

(4) “[V]arious statements made by Dr. Langdell, combined with his use of the EDGE logo, are designed to confuse visitors to his website.”

(E) As documented in Registrant’s October 20, 2014 Reply Brief In Support Of Its Request For Sanctions, Petitioner:

(1) Made highly suspect and likely false claims of service of its initial disclosures, which Registrant never received as allegedly served on May 15.

(2) Made entirely unsupported and likely false factual allegations that the fictional legal cites identified by the Board in its ruling of May 1, 2013 in Cancellation Action No. 92051465 “were later found to be entirely valid.”

(3) Mischaracterized the final order in its litigation with Electronic Arts, claiming Petitioner was “found not to be guilty” of any misbehavior, when in fact the final order did not make any such finding, and the court did not rescind its prior findings with respect to Petitioner’s specific misbehavior identified above.

(4) Claims that it never served on Razer its premature Motion for Summary Judgment filed on August 15, 2014, when that motion includes a certificate of service page on which Tim Langdell certifies on behalf of Petitioner that the motion “was served” on that same date.

(F) As documented in Registrant’s October 20, 2014 Reply Brief In Support Of Its Request For Sanctions, the U.S. district court for the Eastern District of Virginia found as follows:

(1) Where the defendant The Edge Interactive Media, Inc. referred to itself as Edge Interactive a/k/a Edge Games, Inc., “conflicting statements were misrepresentations made on behalf of Edge Interactive as part of their concerted effort to mislead this Court and gain an unfair advantage in litigation,” and denying Edge Games’ ability to file a valid answer and counterclaim.

(2) Misrepresentations regarding the relationship between Edge Interactive and Edge Games were part of a “deliberate strategy to obfuscate and mislead this Court in order to delay the Court’s determination of default.”

(3) Edge Interactive engaged in a “conscious strategy to mislead the Court and delay these proceedings” resulting in sanctions.

(4) Representations that Mr. Langdell resigned from the company as an employee and agent for service of process and that he had not received any communications related to the case were “proven to be false.”

(G) As documented in Registrant’s October 20, 2014 Reply Brief In Support Of Its Request For Sanctions, the U.K. High Court of Justice, Chancery Division, the sworn testimony of Randall Copeland, the CEO of Velocity Micro, Inc. is that alleged emails between Mr. Copeland and Mr. Langdell that were submitted as evidence in court “are not the actual emails” that were exchanged and included numerous falsifications, which Mr. Copeland believes were amended “to misrepresent my reply.”

(H) As documented in Registrant’s May 8, 2015 Brief In Opposition To Petitioner’s Motions To Withdraw Default Admissions And Take Discovery Under FRCP 56(d), Petitioner:

(1) Falsely stated to the Board that it informed Registrant it would be serving its Responses to Registrant’s Request for Admissions on March 31, 2015, when in fact at no time prior to the filing of Registrant’s summary judgment motion did Petitioner promise to provide by a certain date its discovery responses, and in particular responses to the Requests for Admission.

(2) Stated to the Board that Razer “falsely alleged in its motion that Petitioner has failed to provide any discovery responses,” when in fact, as Petitioner knew, Registrant had not received any discovery responses at the time its summary judgment motion was filed, making Registrant’s statement entirely true when made.

(I) As documented in Registrant’s June 1, 2015 Correction Of Factual Misrepresentation By Petitioner In Reply Brief Re Motions To Withdraw Default Admissions And Take Discovery Under FRCP 56(d), Petitioner falsely claimed to the Board to have sent an email to Registrant’s counsel on March 10, 2015 requesting until March 31, 2015 to reply to Registrant’s discovery request.

Respectfully submitted,

Razer (Asia-Pacific) Pte Ltd

A handwritten signature in black ink, appearing to read "Keith Barritt", written over a horizontal line.

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October 14, 2015

Its Attorneys

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Registrant.

Cancellation No.: 92058543

Mark: EDGE


Registration No. 4,394,393

Registered: September 3, 2013

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 14, 2015, a true copy of the foregoing RAZER (ASIA-PACIFIC) PTE LTD FIRST AMENDED ANSWER TO PETITION TO CANCEL was sent via U.S. certified mail, postage prepaid, to the following correspondent of record for Edge Games, Inc.:

Tim Langdell
Edge Games Inc.
530 South Lake Avenue, 171
Pasadena, CA 91101



Signature